

## STATE OF CALIFORNIA

### COMMERCIAL REVITALIZATION DEDUCTION PROGRAM QUALIFIED ALLOCATION PLAN

First Draft

~~Adopted November 20, 2002~~

Federal law established a community reinvestment program in the Community Renewal Tax Relief Act of 2000 as codified under Title 26, Subtitle A, Chapter 1, Subchapter X, Part 1 Section 1400E, et seq. of the Internal Revenue Code of 1986, as amended (“the Act”). The Act, among other things, authorizes certain community revitalization federal tax deductions for businesses in federally designated Renewal Communities, provided that these deductions are allocated by the commercial revitalization agency of the state where the Renewal Community is located, and further provided that the deductions are allocated pursuant to a Qualified Allocation Plan (the “Plan”). California Health and Safety Code Section 50199.70 designates the Tax Credit Allocation Committee (the “Committee” or “TCAC”) as the commercial revitalization agency for California, responsible for implementing the federal program.

#### CALIFORNIA’S RENEWAL COMMUNITIES

There are five federally designated Renewal Communities in California. These are the rural communities of Orange Cove and Parlier, and certain contiguous census tracts in the cities of Los Angeles, San Diego, and San Francisco.

#### CONTENTS OF THE QUALIFIED ALLOCATION PLAN

For purposes of the Commercial Revitalization Deduction program, the “Qualified Allocation Plan” means a Plan that complies with Section 1400I(e)(2) of Title 26 of the United States Code. This Plan does that and sets forth the following:

- (1) selection criteria to be used to determine priorities of the Committee in allocating the deductions;
- (2) procedures that the Committee will use to implement the program and to monitor compliance with the Act;
- (3) a fee schedule for applicants and recipients of commercial revitalization deductions;
- (4) the ability of the Committee to adopt, amend or repeal emergency rules and regulations.

#### GENERAL OBJECTIVES OF THE PLAN

Federal and state laws establish an annual ceiling of \$12,000,000 in commercial revitalization federal tax deductions for each designated Renewal Community. Further, Aa single project may receive up to a maximum of \$10,000,000 in commercial revitalization deductions, or such a lesser limit amount as is determined by TCACthe

~~Committee~~. California's Commercial Revitalization Deduction program ~~will be~~ is a ~~unified~~ program for all five Renewal Communities in the state, so that the total amount that may be awarded annually is \$60 million. Allocations ~~will be made~~ are made to qualifying projects based upon eligibility standards and ~~the~~ selection criteria set forth in the Qualified Allocation Plan or in regulations governing the performance of the program. ~~The Committee~~ TCAC may allocate Commercial Revitalization tax deductions subsequent to ~~its a~~ determination that the proposed project has and will continue to meet the objectives of the program. ~~The Committee~~ TCAC may decline to allocate any requested tax deduction to a project if it determines, in its sole discretion, that the project does not meet the requirements or priorities of the program. In furtherance of the statutory provisions of the Commercial Revitalization Deduction program, ~~the Committee~~ TCAC has established the following objectives for allocation of Commercial Revitalization tax deductions ~~in California~~:

- To maximize the number of permanent, full-time job opportunities for residents of Renewal Communities
- To allocate Commercial Revitalization tax deductions to those entities that provide the greatest overall public benefits for the Renewal Community
- To encourage development and rehabilitation of appropriate commercial property
- To encourage revitalization of the economies of Renewal Communities
- To provide opportunities for participation in Renewal Community partnerships to Renewal Community residents and non-profit groups

## SELECTION CRITERIA

The selection criteria ~~to be used by the Committee when for~~ evaluating applications, ~~includes the~~ includes the following:

- (1) the project's location is within the boundaries of a Renewal Community or meets the requirements of Title 26, Subtitle A, Chapter 1, Subchapter U, Part III, Subpart C, Section 1397C(f) ~~Section 1397C(f)~~ of the Internal Revenue Code of 1986, as amended.
- (2) the project's characteristics including the type of project and its financial feasibility;
- (3) ~~the degree to which~~ how the project will contribute to the implementation of the Renewal Community's tax incentive utilization plan; ~~the Renewal Community's strategic plan;~~
- (4) the demonstrated and ongoing participation of local non-profit organizations and residents of the Renewal Community;
- (5) the increase in permanent, full-time employment created by the project both within the Renewal Community and for Renewal Community residents; and,
- (6) the recommendation of the Renewal Community agency with respect to the project.

## APPLICATION PROCESS AND PROCEDURES

Applications will be accepted throughout the year until November 1 of each year and year and will be considered on a first-come, first-served basis by for each Renewal Community by the Committee TCAC. Applicants must submit two (2) completed applications, using the Committee's TCAC forms, to their designated the applicable Renewal Community agency. The Renewal Community agency will retain one application and forward the second application to TCAC application must be accompanied by the Renewal Community's review report and recommendation of the project, as well as the application fee mentioned below. One application will be kept at the Renewal Community, while the second will be sent by the Renewal Community agency, together with the evaluation of the Community, to the Committee's offices in Sacramento. The Committee TCAC will review each application within a 45-day period starting on the date of receipt of the application from the Renewal Community agency. TCAC will review the application for completeness, for meeting the selection criteria, and for consistency with the job creation goals, for job creation and the demonstrated support and participation of non-profit organizations, for financial feasibility and for determination of the amount of eligible basis that may be utilized to determine the maximum amount of Community Revitalization tax deductions. A summary of each projects recommended for a tax deduction allocation will be presented to the Committee for action.

To the extent that If there are more project proposals submitted to the Committee TCAC from one Renewal Community than there are revitalization tax deductions available to allocate, Committee staff TCAC will prioritize such the applications according to the selection criteria established by the Qualified Allocation Plan and by the Renewal Community's recommendation and ranking based upon its preferences as previously determined and approved by HUD. noted in this Plan. The Committee TCAC may, at its discretion, either approve some of the applications and decline to approve others, or it may allocate a pro-rata share of a Renewal Community's annual tax deduction amount amongst to all eligible applicants within the Renewal Community. In such a situation, the Committee TCAC will seek and give consideration to the comments of the Renewal Community before making such a decision.

Each Renewal Community will begin each calendar year with \$12,000,000 available in commercial revitalization deduction authority. If, by October 1 of any given calendar year, it appears to any Renewal Community that it will not utilize the full \$12,000,000 or a portion thereof, it will notify the Committee, which will transfer the unused amount of deduction authority into a general pool from which other Renewal Communities that have used their entire authority may draw.

## RESPONSIBILITIES OF THE PARTIES

The following responsibilities are established under this Plan:

1. The Renewal Community Agency shall provide the following to ~~the Committee~~TCAC:
  - (a) the Community's Tax Incentives Utilization Plan. This plan will serve as the basis for measuring achievement of specific goals throughout the compliance period~~;~~
  - (b) the Community's policies and procedures established for the Commercial Revitalization Deduction program;
  - (c) the certification by the authorized representative of the agency that the tangible property is or will be located within the boundaries of the Renewal Community or that it meets the requirements of Section 1397C(f) of the Internal Revenue Code of 1986, as amended~~;~~
  - (d) a copy of the executed commitment between the local agency, the project applicant, and any local community organizations~~;~~
  - (e) the completed evaluation form of the Committee~~;~~
  - (f) any comments of the chief elected official of the Community, or his or her designee, with respect to the proposal;
  - (g) the demonstrated and agreed upon involvement of the applicant with respect to job creation, assistance to employees, and residents~~, and so on.~~
2. The Applicant shall provide two copies of all~~the~~all the following ~~in two sets~~, to the Renewal Community agency:
  - (a) completed application and supporting documentation on the Committee's forms;
  - (b) resumes and/or other supporting documentation demonstrating the ability, based on experience, to provide the proposed benefits to the community;
  - (c) evidence of financial feasibility throughout the term of the compliance period (i.e. ten years);
  - (d) evidence of the applicant's financial and management capacity, and/ or ability to bring together a development team and other resources to successfully develop and maintain the project throughout the term of the compliance period; and,
  - (e)(c) when a project is placed in service, the applicant must provide to the Committee a tax professional's certification with respect to the eligible costs expended. For projects requesting \$2,500,000 or more in tax deduction allocation, this certification must be audited. For projects requesting between \$500,000 and \$2,500,000 in tax deduction allocations, the certification may be in the form of a prepared, review level report as defined by generally accepted accounting principles and auditing standards. For projecting

projects requesting less than \$500,000, eligible costs may be certified ~~to by use of of under~~ special, agreed upon procedures as defined by generally accepted accounting principles and auditing standards. For projects receiving less than \$100,000 in tax deduction allocations, the Renewal Community agency may certify to the eligible expenditures.

3. ~~The Committee~~ TCAC shall: ~~perform the following:~~
- (a) review and analyze the application for completeness, accuracy, and adherence to the program requirements, project feasibility, and applicant and development team capability;
  - (b) assess the proposal and the recommendation of the Renewal Community agency to determine if the ~~proposal~~ project meets the goals of the program and the selection criteria of this Plan;
  - (c) establish the maximum qualified revitalization tax deduction amount for the project;
  - (d) allocate the tax deductions in accordance with the provisions of this Plan;
  - (e) issue reservations, binding commitments, and allocations of commercial revitalization tax deductions;
  - (f) monitor the progress of the project in meeting Renewal Community goals;
  - (g) revoke, rescind, or remove tax deductions obtained by fraud, collusion, or any criminal or negligent act on the part of the recipient; and,
  - (h) ~~at the time when~~ the project is placed in service ~~and but~~ prior to making the final tax deduction award to the applicant, ~~the Committee~~ TCAC will review the tax professional's or Renewal Community's certification of costs, ~~and may~~ and reduce the initial amount of the award ~~should the if certified~~ costs ~~actually~~ expended ~~so do not~~ warrant the initial amount.

## TIMING OF ALLOCATIONS

Allocations of the federal tax deduction ~~must will~~ be made monthly up to the last Committee meeting by December 31 of each calendar year. ~~Generally, This may include allocations made to preference will be given to~~ projects that have been or will be placed in service in the year of allocation. ~~If the project will not be placed in service during that calendar current year, the applicant must submit a or may be~~ carryover allocations request to TCAC as defined in Section 42(h) of the Internal Revenue Code of 1986, as amended. ~~Generally, to the extent that there is competition within a particular Renewal Community amongst projects, preference will be given to those projects that have been or will be placed in service in the year of allocation. This carryover allocation request must be received by TCAC by no later than December 15 of the year in which the tax deduction reservation is made or six months subsequent to the tax deduction reservation date. The carryover allocation must be approved by TCAC who will issue the allocation. To~~

~~receive~~ TCAC approval and issuance of the carryover allocation, the applicant must complete the required carryover allocation documentation that demonstrates that a minimum of 10% of the project's estimated aggregate basis has been incurred or will be incurred within six months of the tax deduction reservation. If a carryover allocation is approved by TCAC, the project will have until the end of the second calendar year following the original reservation year to be placed in service. Additionally, the Committee may make forward binding commitments to allocate a future year's deductions if it so chooses. To the extent that a carryover allocation is made, the project will have until the end of the second year following the year of the carryover allocation to be placed in service, provided, however, that more than 10% of the reasonably expected basis in such project is incurred as of the date no later than 6 months subsequent to the making of the carryover allocation. Such term does not include any existing building unless a credit is allowable for rehabilitation expenditures paid or incurred.

## MONITORING

~~The Committee~~ TCAC will monitor all projects ~~to whom~~ after a Commercial Revitalization Deduction allocation ~~has been~~ made to ~~assure that the~~ ensure project ~~remains in~~ compliance with the objectives stated in the application ~~and with the state and federal regulations~~. In the case of a carryover allocation, ~~the Committee~~ TCAC may require periodic status reports on the ~~applicant's~~ progress ~~of the business~~ in meeting its proposed timelines. Should an allocation be made that is not used, or should ~~monitoring reveal~~ TCAC discover that representations made by the applicant ~~have not occurred were not correct~~, ~~the Committee~~ TCAC may decline to make another award to the same applicant.

## FEES

An application fee, in the amount of \$300 ~~paid and~~ in the form of a cashier's check made payable to ~~the Committee~~ TCAC must be submitted with the initial application. A ~~Reservation~~ reservation fee of \$500 is due and payable within 20 days after ~~the Committee~~ TCAC ~~takes action to~~ reserves the deduction for the applicant. ~~For projects receiving less than \$50,000 in deduction reservations, this fee may be waived upon request.~~ For ~~those~~ projects that are placed in service ~~either~~ in the year in which the application is ~~made~~ approved ~~or by no later than the end of the second calendar year following the original reservation year~~, an allocation/monitoring fee equal to .25 percent of the ~~final tax~~ deduction ~~awarded~~ ~~determined~~ determined by TCAC at placed in service must be paid. ~~at the time that evidence of the project being placed in service is submitted and when the allocation is made.~~ For projects that ~~will not be placed in service in the year in which they require a carryover allocation (i.e. projects that will not be placed in service in the year in which the tax deduction reservation is made) and will therefore require a carryover allocation,~~ an additional carryover fee equal to the greater of \$500 ~~of or one percent~~. 1 percent of the ~~original tax~~ deduction ~~awarded~~ reserved by TCAC must be paid at the time the carryover allocation is made. ~~In this instance, the allocation/monitoring fee will be payable when the project is placed in service.~~

## REGULATIONS

The Committee may adopt regulations as needed to implement the Commercial Revitalization Deduction program. ~~These may be~~ The regulations will be emergency regulations, ~~which are~~ conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the California Government Code. Any regulations, once adopted pursuant to statutory requirements, are incorporated by reference as part of this Qualified Allocation Plan.

## AMENDMENTS TO THE PLAN

This Plan may be modified by the Committee from time to time following consideration of comments received at a properly noticed public hearing. After such hearing, this Plan may be amended by the Committee at a properly notice Committee meeting. Any such amendments approved will take effect immediately upon adoption by the Committee or such later time as may be specified in a Committee resolution.

## DEFINITIONS

“Act” means the Community Renewal Tax Relief Act of 2000, as it may be amended (Section 1400E and following of Title 26 of the United States Code).

“Active Involvement” means demonstrated and ongoing activity by residents, nonprofit organizations, particularly within the renewal community, involved with the proposed project as demonstrated in the application for allocation to the state and certified to by the local government agency.

“Applicant” means the private entity, local residents or non-profit groups preferably within the renewal community who have entered into a partnership agreement with the designated local government agency for the purposes of meeting the requirements of the federal, state and local governments for which an allocation of revitalization tax deductions is requested of and approved by the State.

“Commercial Revitalization Agency” means the California Tax Credit Allocation Committee

“Commercial Revitalization Expenditure” means a capital expenditure for depreciable property that is nonresidential real property subject to the recapture provisions of Section 1250 of the Internal Revenue Code of 1986, as amended, that is related to nonresidential property, for example a commercial or industrial building and its components. Qualifying expenditures may include building acquisition costs made in connection with a substantial renovation only to the extent that the acquisition cost does not exceed 30 percent of the total qualified revitalization expenses for the building (determined without regard to the acquisition cost).



- “Qualified Renewal Community Project” means any commercial or industrial building within the boundaries of a designated Renewal Community that has been constructed or substantially rehabilitated and placed in service after December 31, 2001, and before January 1, 2010 that receives a Commercial Revitalization Deduction allocation from the Committee.
- “Qualified Revitalization Expenditure” means any amount properly chargeable to a capital account from property for which depreciation is allowable under Internal Revenue Code Section 168 and which is nonresidential real property (as defined in Section 168(e)) or Section 1250 (as defined in Section 1250(c)) which is functionally related and excludes acquisition costs in excess of 30 percent of the aggregate qualified revitalization expenditures (determined without regard to such cost) with respect to such building and which costs are certified by a certified public accountant or tax attorney.
- “Renewal Community” means those areas that have been so designated by the Secretary of Housing and Urban Development. In California, the communities of Orange Cove and Parlier, and certain census tracts in Los Angeles, San Diego, and San Francisco.
- “Substantial Improvement” means tangible property meeting the requirements of Section 1400(b)(4)(B) of the Internal Revenue Code of 1986, as amended, except that December 31, 2001 shall be substituted for December 31, 1997.
- “Tax Deduction option” means the option made by the applicant as to how much and when to claim the Commercial Revitalization Deduction allocated to it. Provided that it has received a deduction allocation, an applicant may choose either to claim 50% of the qualifying expenditures in the year in which the building is placed in service and to capitalize remaining expenses under applicable tax law, or it may choose to claim the entire expenditures at the rate of ten percent per year for ten years, beginning in the year the project is placed in service.
- “Tax Incentive Utilization Plan” means the plan by the local agency submitted to and approved by the Secretary of Housing and Urban Development that describes the community’s economic growth promotion requirements and details a minimum of four and a maximum of six actions taken by the locality to promote renewal community revitalization.